

AMENDED IN SENATE JUNE 19, 2014

AMENDED IN ASSEMBLY MAY 15, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2293

Introduced by Assembly Member Bonilla

February 21, 2014

An act to add ~~Chapter 8.5~~ *Article 7* (commencing with Section 5430) to *Chapter 8* of Division 2 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2293, as amended, Bonilla. Transportation network companies: insurance coverage.

~~Under existing~~

~~Existing law, the Passenger Charter-party Carriers' Act, the Public Utilities Commission has adopted rules and regulations relating to public safety risks in the operation of transportation services utilizing transportation network companies. Those regulations define a transportation network company as an organization operating in California that provides prearranged transportation services for compensation using an online-enabled platform to connect passengers with drivers using their personal vehicles. Existing regulations of the commission require, among other things, a transportation network company to acquire a commercial liability policy for incidents involving transportation network company vehicles and drivers in transit to or~~

~~during a transportation network company trip. provides for the regulation of charter-party carriers of passengers by the Public Utilities Commission, and makes it unlawful for a charter-party carrier to operate without first obtaining a permit or certificate, from the commission, except as specified. The act requires a charter-party carrier to, among other things, comply with specified vehicle identification and accident liability protection requirements. A violation of the act is generally a misdemeanor, punishable by a specified fine or term of imprisonment, or both, depending on the violation.~~

~~This bill would similarly define “transportation network company” and would require a transportation network company to disclose in writing to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability provided by the transportation network company and to advise a participating driver in writing that the driver’s personal automobile insurance policy may not provide coverage while the driver makes himself or herself available for transportation network company services.~~

~~The bill would require a transportation network company’s insurance policy to apply, as the primary coverage, in the event of a loss or injury when a participating driver is logged on to the transportation network company’s application program.~~

~~The bill would also require the transportation network company’s insurance company to defend and indemnify the participating driver and the person to whom the personal motor vehicle is registered in a civil action for a loss or injury that occurs when the personal motor vehicle is made available for transportation network services.~~

~~This bill would impose specified requirements relating to insurance coverage, indemnity, and liability on transportation network companies, as defined, including requiring a transportation network company to disclose to participating drivers the company’s insurance coverage and limits of liability. The bill would specify that the transportation network company’s insurance is primary, and would impose a duty to defend and indemnify on the transportation network company. The bill would require the commission and the Department of Insurance to collaborate on a study of transportation network company insurance, as specified, and would prohibit a transportation network company from disclosing the personally identifiable information of a passenger, except as specified. The bill would specify the Legislature’s intent relating to expediting the approval of transportation network company insurance~~

products, and would set forth related legislative findings and declarations.

Because a violation of the bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Chapter 8.5 (commencing with Section 5430) is~~
2 ~~added to Division 2 of the Public Utilities Code, to read:~~

3
4 ~~CHAPTER 8.5. TRANSPORTATION NETWORK COMPANIES~~

5
6 ~~SECTION 1. Article 7 (commencing with Section 5430) is~~
7 ~~added to Chapter 8 of Division 2 of the Public Utilities Code, to~~
8 ~~read:~~

9
10 ~~Article 7. Transportation Network Companies~~

11
12 ~~5430. Notwithstanding any other provision of this chapter, this~~
13 ~~article shall apply to transportation network companies.~~

14 ~~5430.~~

15 ~~5431. As used in this chapter, a “transportation network~~
16 ~~company” is an organization, including, but not limited to, a~~
17 ~~corporation, partnership, or sole proprietor, operating in California~~
18 ~~that provides prearranged transportation services for compensation~~
19 ~~using an online-enabled application or platform to connect~~
20 ~~passengers with drivers using their personal vehicles.~~

21 ~~5431. (1)~~

22 ~~5432. A transportation network company shall disclose in~~
23 ~~writing to participating drivers, as part of its agreement with those~~
24 ~~drivers, the insurance coverage and limits of liability that the~~
25 ~~transportation network company provides while a driver makes~~

1 himself or herself available for transportation network company
2 services, and shall advise a participating driver in writing that the
3 driver's personal automobile insurance policy may not provide
4 coverage while the driver makes himself or herself available for
5 transportation network company services.

6 ~~(2) A transportation network company's insurance policy is the~~
7 ~~primary policy coverage. If an applicable personal automobile~~
8 ~~insurance policy exists, the coverage of that policy is excess.~~

9 ~~5432. For purposes of determining insurance coverage, a~~
10 ~~transportation network company's insurance policy shall apply in~~
11 ~~the event of a loss or injury when a participating driver logs on to~~
12 ~~the transportation network company's application program.~~
13 ~~Coverage under the transportation network company's insurance~~
14 ~~policy ceases when the driver logs off from the transportation~~
15 ~~network company's application program.~~

16 ~~5433. If a participating driver or the person to whom the~~
17 ~~personal motor vehicle is registered is named a party in a civil~~
18 ~~action for a loss or injury that occurs during any time period when~~
19 ~~the personal motor vehicle is made available for transportation~~
20 ~~network services, the transportation network company's insurance~~
21 ~~company shall have the duty to defend and indemnify the~~
22 ~~participating driver and the person to whom the personal motor~~
23 ~~vehicle is registered.~~

24 ~~5433. (a) Regarding insurance, both of the following shall~~
25 ~~apply from the moment a participating driver logs on to the~~
26 ~~transportation network company's application program until the~~
27 ~~driver logs off from that application program:~~

28 ~~(1) Transportation network company insurance shall be primary.~~

29 ~~(2) Transportation network company insurance shall have the~~
30 ~~duty to defend and indemnify.~~

31 ~~(b) Transportation network company liability insurance~~
32 ~~coverage shall be required at a lower amount from the moment a~~
33 ~~participating driver logs on to the transportation network company~~
34 ~~application program until that driver has a passenger match~~
35 ~~accepted. This lower amount shall be at least fifty thousand dollars~~
36 ~~(\$50,000) for death and personal injury, at least one hundred~~
37 ~~thousand dollars (\$100,000) for death and personal injury of two~~
38 ~~or more persons, and at least thirty thousand dollars (\$30,000)~~
39 ~~for property damage, all per incident. The requirements for this~~
40 ~~coverage may be satisfied by any of the following:~~

1 (1) A primary personal automobile liability insurance policy
2 that recognizes the driver's provision of transportation network
3 company services.

4 (2) An automobile liability insurance policy maintained by the
5 transportation network company that provides primary coverage
6 in the event a driver's personal automobile insurance policy does
7 not recognize the driver's provision of transportation network
8 company services.

9 (3) A combination of a primary automobile liability insurance
10 policy that recognizes the driver's provision of transportation
11 network company services and an automobile liability insurance
12 policy maintained by the transportation network company.

13 (c) This section shall not limit the liability of a transportation
14 network company arising out of an automobile accident involving
15 a participating driver in any action for damages against a
16 transportation network company for an amount above the required
17 insurance coverage.

18 5434. The commission and the Department of Insurance shall
19 collaborate on a study of transportation network company
20 insurance to assess whether coverage requirements are appropriate
21 to the risk of transportation network company services in order to
22 promote data-driven decisions on insurance requirements.

23 5435. A transportation network company shall not disclose to
24 a third party any personally identifiable information of a
25 transportation network company passenger unless one of the
26 following apply:

27 (1) The customer knowingly consents.

28 (2) Pursuant to a legal obligation.

29 (3) The disclosure is to the commission in order to investigate
30 a complaint filed with the commission against a transportation
31 network company or a participating driver and the commission
32 treats the information under confidentiality protections.

33 5436. It is the intent of the Legislature that the Department of
34 Insurance expedite review of any application for approval of
35 transportation network company insurance products.

36 5437. The Legislature makes the following findings:

37 (a) The commission has initiated regulation of transportation
38 network companies as a new category of charter-party carriers
39 and continues to develop appropriate regulations for this new
40 service.

1 **(b)** *Given the rapidly evolving transportation network company*
2 *service, it is the intent of the Legislature to continue ongoing*
3 *oversight of the commission’s regulation of these services in order*
4 *to enact legislation to adjust commission authority and impose*
5 *specific requirements or prohibitions as deemed necessary as these*
6 *services evolve.*

7 ~~5434.~~

8 5438. Notwithstanding Section 11580.9 of the Insurance Code,
9 or any other law affecting whether one or more policies of
10 insurance that may apply with respect to an occurrence is primary
11 or excess, this ~~chapter~~ *article* determines the obligations under
12 insurance policies issued to transportation network companies and,
13 if applicable, drivers providing transportation network services
14 for transportation network companies.

15 **SEC. 2.** *No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution because*
17 *the only costs that may be incurred by a local agency or school*
18 *district will be incurred because this act creates a new crime or*
19 *infraction, eliminates a crime or infraction, or changes the penalty*
20 *for a crime or infraction, within the meaning of Section 17556 of*
21 *the Government Code, or changes the definition of a crime within*
22 *the meaning of Section 6 of Article XIII B of the California*
23 *Constitution.*